

AMENDMENTS TO THE DRAWINGS

Applicant has amended FIG. 1 to change the reference character “network 116” to “network 122” to agree with the specification, and to correct the direction of arrow “A” to agree with the specification. Applicant has amended FIG. 2 to delete the reference characters “200” and “212.” Applicant has amended FIG. 3 to delete the reference characters “300” and “316,” and to correct the direction of the arrow between box 314 and 302 to agree with the specification. Applicant has amended FIG. 4 to delete the reference character “400.”

Attachments: 4 replacement sheets.

REMARKS

In the Official Action mailed on **August 3, 2004**, The Examiner reviewed claims 1-23. The drawings were objected to as failing to comply with 37 C.F.R. 1.84(p)(5) because they include reference characters not mentioned in the description. The disclosure was objected to because of informalities. Claims 1-23 were rejected under 35 U.S.C. §102(e) as being anticipated by Okano et al. (USPN 6,725,253 B1, hereinafter "Okano")

Objections to the drawings

The drawings were objected to as failing to comply with 37 C.F.R. 1.84(p)(5).

Applicant has amended the drawings as described in the *Amendments to the Drawings* section. Additionally, Applicant has amended the specification to include the reference character "412." No new matter has been added.

Objections to the disclosure

The disclosure was objected to because of informalities.

Applicant has amended the disclosure to correct the informalities noted by the Examiner. Additionally, Applicant has amended the disclosure to correct typographical errors. No new matter has been added.

Rejections under 35 U.S.C. §102(e)

Independent claims 1, 8, 15, and 21-23 were rejected as being anticipated by Okano. Applicant respectfully points out that Okano teaches monitoring failure by having the first primary load balancing apparatus send operation monitor messages to **all of the other load balancing apparatuses** (the first secondary load balancing apparatus, the first backup load balancing apparatus, and all secondary load balancing apparatuses) (see Okano, col. 16, lines 33-44).

In contrast, the present invention organizes the load balancers into **a ring** for failure recovery purposes (see FIG.1, references 106-108, and page 10, lines 1-23 of the instant application). Placing the load balancers into a ring for failure recovery purposes is beneficial because each load balancer is responsible for determining the status of only one other load balancer.

There is nothing within Okano, either explicit or implicit, which suggests placing the load balancers into a ring. Again, Okano teaches away from doing this by requiring the first primary load balancer to contact all other load balancing elements within the system.


Accordingly, Applicant has amended independent claims 1, 8, and 21-22 to clarify that the present invention places the load balancers into a ring for failure recovery purposes. These amendments find support in FIG.1, references 106-108, and on page 10, lines 1-23 of the instant application. Dependent claims 4, 12, and 18 are canceled without prejudice. Applicant has also amended dependent claims 2 and 10 to correct typographical errors. No new matter has been added.

Hence, Applicant respectfully submits that independent claims 1, 8, 15, and 21-23 as presently amended are in condition for allowance. Applicant also submits that claims 2-7, which depend upon claim 1, claims 9-14, which depend upon claim 8, and claims 16-17 and 19-20, which depend upon claim 15, are for the same reasons in condition for allowance and for reasons of the unique combinations recited in such claims.

CONCLUSION

It is submitted that the present application is presently in form for allowance. Such action is respectfully requested.

Respectfully submitted,

By 
Edward J. Grundler
Registration No. 47,615

Date: October 25, 2004

Edward J. Grundler
PARK, VAUGHAN & FLEMING LLP
508 Second Street, Suite 201
Davis, CA 95616-4692
Tel: (530) 759-1663
FAX: (530) 759-1665